

Remarks/Arguments

A. Summary of Claims

Claim 21 is revised to incorporate the subject matter of claim 26. Claims 27-31 are revised to depend from claim 21. Claim 26 is cancelled. Non-limiting support for such revisions can be found in the specification and claims as originally filed.

Claims 21-25 and 27-41 are pending.

B. Response to Restriction Requirement

The Examiner requests restriction to one of the following two groups: (1) claims 21-40 drawn to an article; and (2) claim 41 drawn to a method. Restriction Requirement at page 2.

Applicant elects Group I (*i.e.*, claims 21-25 and 27-41) with traverse. Applicant respectfully requests that the restriction between Groups I and II be withdrawn in view of the following.

1. Groups I and II Relate to a Single General Inventive Concept

The claims in Groups I and II relate to a single general inventive concept under PCT rule 13.1. In particular, they share at least one special technical feature, *i.e.*, a technical feature that defines a contribution over the prior art (PCT rule 13.2).

(i) Scope and content of Machol

Machol describes an electrically conductive transparent antireflection coating for ophthalmic lenses, which makes the lenses easier to clean. The coating includes at least one electrically conductive layer comprising sub-stoichiometric metallic oxides (*e.g.*, SiO_x or TiO_x), which imparts antistatic properties to the coating. The antireflection coating comprises four layers having alternatively high (TiO_x or TiO₂) and low (SiO_x or SiO₂) refractive indices. Low refractive index (LI) layers preferably comprise SiO₂; high refractive index (HI) layers preferably comprise TiO_x, with x ranging from 1.3 to 1.9995.

The coating of Machol is defined as having a high transmittance, *i.e.*, ranging from 98 to 99.5% (col. 12, lines 34-38). A person of ordinary skill in the art would easily recognize that this means that the TiO_x layers of Machol do not absorb in the visible spectrum, or very little.

(ii) Differences between Machol and the Claimed Invention

Machol does not affect the patentability of the claimed invention for at least three reasons. First, this reference fails to disclose or suggest an optical article having a relative transmission factor T_v reduced by at least 10 %. The reduction in the T_v factor due to the TiO_x layers is almost nil in Machol, since T_v is close to 100 % (col. 12, lines 34-38). Further, Machol states:

...the particular structure of the titanium oxides produced is not critical so long as the layer has the desired optical characteristics (e.g., refractive index and transparency) necessary for the anti-reflection coating... (col. 5, lines 48-53)
(underlines added)

Second, the antireflection coating of Machol does not absorb in the visible spectrum despite its layers having a thicknesses similar to those of Applicant's antireflection coating. This can be explained by the use of a different sub-stoichiometric titanium oxide in Machol, *i.e.* a TiO_x compound with x around 1. Stated another way, the coating of Machol and Applicant's claimed coating have different structures given that Machol's does not absorb light in the visible spectrum. Therefore, it cannot be said that Applicant's absorption characteristic, in addition to the T_v characteristic discussed above, are inherent within Machol—the structural differences result in functional differences.

Third, Machol does not disclose or suggest Applicant's claimed $\text{SiO}_2/\text{Al}_2\text{O}_3$ LI layer. Applicant's specification explains that this layer gives rise to two main effects: “[o]ne effect is that it improves the uniformity of the coloring over the whole of the optical surface of the optical article, and another effect is that it improves the life of the anti-reflection coating, and its

resistance to external degradation, particularly to UV radiation.” English version of specification at page 5, lines 7-11 (underlines added). Further, this reference fails to suggest the preparation of a colored (*i.e.*, visible absorbing) antireflection coating bearing a layer comprising a mixture of silicon oxide and aluminium oxide. In fact, a person of ordinary skill in the art had no apparent reason to modify the antireflection coating of Machol to obtain Applicant’s claimed LI layer to improve uniformity and stability of the coloring; rather Machol would suggest that no coloring is desired given its preference for Tv being close to 100 %. The fact that Machol discloses Al₂O₃ as a possible material for an intermediate refractive index layer, do not lead to any apparent reason to combine such a layer with SiO₂ to create Applicant’s claimed LI layer.

In conclusion, there are several special technical features shared by Groups I and II, including:

- the anti-reflection coating comprises at least two visible-absorbing layers comprising a sub-stoichiometric titanium oxide, the visible-absorbing layers being such that the relative transmission factor of visible light Tv is reduced by at least 10% compared with the same article not comprising said visible-absorbing layers, and

- at least one of the visible-absorbing layers is a high index (HI) layer comprising a sub-stoichiometric titanium oxide, and at least one of the low index (LI) layers comprises a mixture of silicon oxide and aluminium oxide.

These special technical features support Applicant’s position that restriction between Groups I and II is improper.

2. There Is No “Serious Burden” to Search Groups I and II Together

The Group II method claims are drafted in such a manner that they necessarily include all of the limitations of the Group I article claims. Therefore, the searching burden on the Examiner is reduced, as any search dedicated to the Group I articles would necessarily result in identifying documents that are pertinent to the Group II method claims.

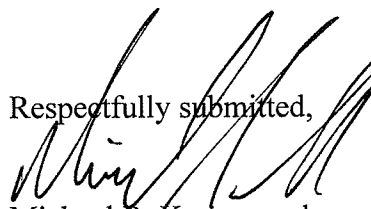
The opposite is also true. Any search directed to the Group II method claims would necessarily result in identifying references that are related to the Group I article claims. Again, all of the elements of the Group I article claims are present in the Group II method claims.

Applicant requests that the Restriction Requirement be withdrawn for at least these reasons. *See* MPEP § 808.02.

C. Conclusion

Applicant requests that the Restriction between Groups I and II be withdrawn for at least the reasons discussed above. Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3020.

Respectfully submitted,



Michael R. Krawzsenek
Reg. No. 51,898
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
512.536.3020 (voice)
512.536.4598 (fax)

Date: May 12, 2009